

REMARKS

Claims 1-31 are currently pending in the subject application and are presently under consideration. A version of all pending claims is found at pages 3-9. Claims 8, 22 and 24 have been amended herein to correct minor informalities. Further, the specification has been amended to comport with the Examiner's recommendation. Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objection to Specification

The disclosure is objected to because of minor typographical errors. This objection should be withdrawn in view of the amendments made herein to the specification.

II. Objection of Claim 8

Claim 8 is objected to because of minor informalities. This objection is now believed to be moot and should be withdrawn, as claim 8 has been amended herein to cure such informalities.

III. Rejection of Claims 22 and 24 Under 35 U.S.C. §112

Claims 22 and 24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In view of the amendments made to claims 22 and 24 herein, this rejection is moot and should be withdrawn.

IV. Rejection of Claims 1, 8-13, 16, 18, 21-22 and 25-26 Under 35 U.S.C. §102(e)

Claims 1, 8-13, 16, 18, 21-22 and 25-26 stand rejected under 35 U.S.C. §102(e) as being anticipated by Curtis (US 6,442,754). It is respectfully requested that this rejection be withdrawn for the following reasons. Curtis does not teach or suggest each and every limitation as recited in the claimed invention.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)(emphasis added).

Independent claim 1 recites a system to facilitate installation and/or removal of components including at least one shared component, comprising a validation engine *operative to provide a valid order*, and an installer operative to control at least one of an install and removal operation of the components *based on the valid order* and operative to effect manipulation of at least one property associated with the at least one shared component to reflect dependency for the at least one shared component according to the installation or removal thereof. Independent claims 13, 25 and 26 recite similar claim limitations. In particular, the valid ordering taught in the subject claims may be defined by the developer or creator of the software component, and in fact, several possible valid installation orders may be defined for different aspects of the overall installation process, each ordering being associated with a different part of the installation process. Further, the validation engine or dependency manager, *prior to installation and/or removal*, validates, based upon internal data (e.g., algorithms), whether the ordering, as prescribed by the developer or creator, is valid. Where an invalid ordering is received, the validation engine/dependency manager re-orders the ordering to create a valid order, and transmits the valid order to the installer, which thereupon, based upon the valid ordering, installs or removes components, ensuring that all shared components are installed after all non-shared components. It is apparent therefore that the claimed invention teaches a novel system and method to manage the installation and/or removal of components based upon a valid ordering, which Curtis neither teaches nor suggests.

Curtis teaches a system, method, program and data structure for installing a program onto a computer including an operating system. However, Cutis fails to teach or suggest a validation engine capable of providing and ensuring a valid ordering prior to

installation or removal of components. Curtis simply teaches a “check_dependency” function that determines whether a file, program or registry object indicated in a dependency list *is installed* on the computer. *See*, col. 11, lines 17-20. The “check_dependency” function does not, *prior to installation and/or removal*, provide an ordered and validated ordering of components that are to be installed and/or removed by an installation component. Thus, Curtis is clearly deficient in this regard, and as a consequence, the rejection with respect to independent claims 1, 13, 25 and 26, and claims that depend there from, should be withdrawn.

V. Rejection of Claims 2-4, 14-15, 17, 23-24 and 29-31 Under 35 U.S.C. §103(a)

Claims 2-4, 14-15, 17, 23-24 and 29-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis as applied to claims 1, 8-13, 16, 18, 21-22 and 25-26, in view of Taylor (US 5,721,824). It is respectfully requested that this rejection be withdrawn for the following reasons. Curtis and Taylor, neither alone nor in combination, teach or suggest each and every limitation set forth in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. *See* MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. *See* *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)(emphasis added).

Independent claims 23, 24 and 31 recite similar claim limitations: *a validation component operative to provide a valid order and a setup engine operative to initiate installation of each of the components according to the valid order . . .* As discussed

supra, Curtis fails to teach or suggest a validation component capable of providing a valid order based upon setup data. Curtis simply provides a “check_dependency” function that determines whether files or programs *are installed* on the computer. Curtis clearly fails to determine a valid ordering *prior to the installation and/or removal* of components, but rather ascertains whether files are *currently installed* on the computer; no ordering of components, prior to installation and/or removal, is accomplished by Curtis. Further, as discussed *supra*, and contrary to the Examiner’s assertion, Curtis does not base the installation of components *upon a valid order*, but rather installation of components is based on whether or not particular components already exist on the computer system. Moreover, as the Examiner concedes, Curtis fails to teach or suggest a setup engine operative to initiate installation of each of the components according to the valid order during a first part of the installation, the shared component being installed for a first dependent component during the first part of installation, the shared component being installed for each other dependent component during a second part of the installation separate from the first part.

The Examiner attempts to utilize Taylor to rectify the deficiencies presented by Curtis. Taylor teaches installing a software package having at least one dependent software package to also be installed on a server or standalone file space, multiple client file space or both in a file system of the server and one or more clients. Taylor attempts to accomplish its ends by utilizing an action list of dependent packages that is *built during installation* of the dominant package. This is contrary to the teaching in applicants’ claimed invention.

The claimed invention rather than building an action list during the installation of the dominant package, ensures a valid ordering is established prior to the installation and/or removal of the dominant or secondary packages, and thus is clearly distinguishable from Taylor in that dependency and ordering of components, upon which the subsequent first and second parts of the installation are based, is resolved prior to the actual commencement the first and second parts of the installation. It is apparent therefore that Taylor fails to teach or suggest *a validation component operative to provide a valid order* as recited in the subject claims.

In view of at least the foregoing, it is submitted that neither Curtis nor Taylor,

alone or in combination, teach or suggest each and every limitation set forth in the subject claims, *viz.*, *a validation component operative to provide a valid order and a setup engine operative to initiate installation of each of the components according to the valid order*. Accordingly, this rejection should be withdrawn with respect to independent claims 23, 24 and 31, together with claims that depend there from.

VI. Rejection of Claims 5-7, 19-20 and 27-28 Under 35 U.S.C. §103(a)

Claims 5-7, 19-20 and 27-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis as applied to claims 1, 8-13, 16, 18, 21-22 and 25-26, in view of Kruger *et al.* (US 6,367,075). It is respectfully requested that this rejection be withdrawn for the following reasons. Claims 5-7, 19-20 and 27-28 depend from independent claims 1, 13 and 26 respectively, and Kruger *et al.* does not rectify the aforementioned deficiencies presented by Curtis. Accordingly, withdrawal of this rejection and allowance of these claims is respectfully requested.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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